

Hon. Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RRW LEGACY MANAGEMENT
GROUP, INC., a Washington corporation,

Plaintiff,

v.

CAMPBELL WALKER,

Defendant.

No. 2:14-cv-00326MJP

PLAINTIFF'S MOTION TO AMEND
COMPLAINT

Note on Motion Calendar:
Friday, August 29, 2014
Without Oral Argument

I. INTRODUCTION

Pursuant to Fed. R. Civ. P. 15(a), Plaintiff RRW Legacy Management Group, Inc. ("RRW") seeks an order permitting it to amend its Complaint against Defendant for the reasons set out herein. A copy of the proposed Amended Complaint is attached to the Declaration of Charlotte A. Archer in Support of Plaintiff's Motion to Amend.

II. RELEVANT FACTS

This matter arises from the removal of Defendant as the general partner of Argyll Limited Partnership ("Argyll"), for cause. During his tenure as general partner, Defendant refused to provide Argyll's Limited Partners with access to the partnership's books, records and financial information, refused to provide the Limited Partners with a copy of Argyll's Partnership Agreement, lied to the Limited Partners about their rights under the

Partnership Agreement, embezzled partnership profits, and committed other acts of misfeasance.

As a result of his misfeasance, a majority of Argyll's Limited Partners voted to remove him from his position as General Partner, and appointed RRW as the successor General Partner. Despite his lawful removal, Defendant refused to provide RRW and the Limited Partners with Argyll's books and records. *See* Declaration of Charlotte A. Archer (hereinafter "Archer Decl.", at ¶ 2). When RRW was able to obtain some of the books and records from outside sources (including Argyll's former bookkeeper and attorney) and additional records from Defendant via discovery in this matter—which occurred a mere week ago—some additional claims against Defendant came to light, arising from Defendant's misfeasance during his tenure as General Partner. *See* Archer Decl. at ¶¶ 3-4. The new information also allowed RRW to streamline the existing claims.

Because Defendant delayed in producing any material in response to RRW's discovery requests, Defendant agreed to extend the parties' deadline to amend the pleadings in this matter until August 11, 2014. *Dkt.* 54 (Third Stipulated Motion and Order to Extend Deadline to File Amended Pleadings). The Court granted that request on August 4, 2014. *Dkt.* 56 (Order Granting Third Stipulated Motion to extend Deadline to File Amended Pleadings).

III. ISSUE PRESENTED

Whether this Court should grant RRW's request to amend its Complaint

IV. EVIDENCE RELIED UPON

Plaintiff's request is based upon the records and pleadings on file, and the Declaration of Charlotte A. Archer and Exhibit A thereto.

V. AUTHORITY AND ARGUMENT

The Court should allow Plaintiff to amend its Complaint. FRCP 15(a) provides that though plaintiffs must seek leave of court to amend their Complaint after defendants

1 have answered, “leave shall be freely given when justice so requires.” The Ninth Circuit
 2 has emphasized that “Rule 15’s policy of favoring amendments to pleadings should be
 3 applied with ‘extreme liberality.’” *DCD Programs, Ltd. v. Leighton*, 833 F.2d at 186
 4 (quoting *United States v. Webb*, 655 F.2d 979 (9th Cir. 1981)); see also *Howey v. United*
 5 *States*, 481 F.2d 1187, 1190 (9th Cir. 1973) (citing *Foman v. Davis*, 372 U.S. 178 (1962)).
 6 This doctrine is a result of the federal policy which strongly favors determination of cases
 7 on their merits. See *Howey*, 418 F.2d at 1190.

8 The trial court should weigh several factors when determining the propriety of a
 9 motion under Rule 15: (i) undue delay, (ii) bad faith, (iii) futility of amendment, and (iv)
 10 prejudice to the opponent. *Loehr v. Ventura City Cmty. College Dist.*, 743 F.2d 1310,
 11 1319 (9th Cir. 1984); *Howey*, 481 F.2d at 1190. Moreover, a mere passage of time, by
 12 itself, is insufficient reason to deny a motion to amend a pleading; rather, there must be an
 13 affirmative showing of either prejudice or bad faith. See *Richardson v. United States*, 841
 14 F.2d 993, 999 (9th Cir.), *modified on other grounds*, 860 F.2d 357 (9th Cir. 1988).

15 Here, permitting plaintiff to amend the complaint is proper under each of the
 16 relevant factors. First, the motion to amend was neither unduly delayed nor brought in
 17 bad faith. Plaintiff cannot be said to have delayed unduly in filing the Amended
 18 Complaint as the Court's Order Setting Trial Date & Related Dates (amended by
 19 stipulation of the parties) provides that pleadings may be amended on or before the date of
 20 this filing. Moreover, Plaintiff only recently received discovery from Defendant and, as a
 21 result, has uncovered material that forms the basis of additional causes of action against
 22 Defendant for his wrongdoing during his tenure as the former general partner of Argyll.

23 Moreover, trial in this matter is set for May 18, 2015. Very little discovery has
 24 occurred (as Defendants produced their first tranche of responsive documents a mere
 25 week ago and no depositions have yet occurred). Defendants would suffer no undue
 26 prejudice by allowing the amendment of the complaint, and in fact, the amendment will

1 allow the Court and the parties to more clearly focus on the relevant issues in this
2 litigation.

3 **VI. CONCLUSION**

4 For the foregoing reasons, RRW respectfully requests that this Court grant leave to
5 amend the complaint in the form as attached as Exhibit A to the Declaration of
6 Charlotte A. Archer.

7 DATED this 11th day of August, 2014.

8 McNAUL EBEL NAWROT & HELGREN PLLC

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10 By: s/Charlotte A. Archer

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record who receive CM/ECF notification.

By: s/Charlotte A. Archer
Charlotte A. Archer, WSBA No. 43062